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Security Council

Sixty-second year

Provisional

5687th meeting

Thursday, 7 June 2007, 10 a.m.

New York

President:	Mr. Verbeke	(Belgium)
Members:	China	Mr. Wang Guangya
	Congo	Mr. Gayama
	France	Mr. De La Sablière
	Ghana	Mr. Christian
	Indonesia	Mr. Kleib
	Italy	Mr. Mantovani
	Panama	Mr. Suescum
	Peru	Mr. Chávez
	Qatar	Mr. Al-Bader
	Russian Federation	Mr. Rogachev
	Slovakia	Mr. Burian
	South Africa	Ms. Qwabe
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United States of America	Mr. Khalilzad

Agenda

Reports of the Secretary-General on the Sudan

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07-37181 (E)

The meeting was called to order at 10.15 a.m.

Expression of thanks to the retiring President

The President (*spoke in French*): As this is the first meeting of the Security Council for the month of June, I should like to take this opportunity to pay tribute, on behalf of the Council, to His Excellency Mr. Zalmay Khalilzad, Permanent Representative of the United States of America to the United Nations, for his service as President of the Security Council for the month of May 2007. I am sure that I speak for all members of the Council in expressing sincere appreciation to Ambassador Khalilzad for the great diplomatic skill with which he conducted the Council's business last month.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan

The President (*spoke in French*): In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court.

It is so decided.

I invite Mr. Luis Moreno-Ocampo to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court. I now give him the floor.

Mr. Moreno-Ocampo: Thank you, Mr. President, for this opportunity to brief the Security Council on the activities of my Office. Since my report of December last year (see S/PV.5589), I presented evidence, on 27 February 2007, to the judges of the International Criminal Court.

The judges rendered their decision on 27 April 2007. The judges found that the evidence presented offered reasonable grounds to believe that Ahmad Muhammad Harun, former Minister of State for the Interior of the Government of the Sudan, and Ali Muhammad Ali Abd-Al Rahman, otherwise known as Ali Kushayb — a militia/Janjaweed leader — joined together to persecute and attack civilians in Darfur.

The Prosecution's case demonstrated how Ahmad Harun organized a system through which he recruited militia/Janjaweed, funded militia/Janjaweed and armed militia/Janjaweed to supplement the Sudanese Armed Forces and incited them to attack and commit massive crimes against the civilian population in Darfur. The prosecution's case demonstrated that Ali Kushayb, by personally delivering arms and leading attacks against villages, was a key part of that system. Acting together, they committed crimes against humanity and war crimes.

The judges have issued arrest warrants against Mr. Harun and Mr. Kushayb. In accordance with the Court's decision, the Registry is in the process of transmitting requests for cooperation to execute the warrants.

The ongoing situation in Darfur remains alarming. There are 4 million people in need of humanitarian assistance in the region. There are 2 million internally displaced people, immensely vulnerable. There are continuing attacks against them and against international workers, as well as frequent impediments by the authorities to the delivery of assistance. Presiding over this dire situation is Ahmad Harun, the same individual sought by the Court. Ahmad Harun is now Minister of State for Humanitarian Affairs. This is the same man who in 2003, at a public meeting, declared that in being appointed to the Darfur security desk, he had been given all the power and authority to kill or forgive whoever in Darfur, for the sake of peace and security.

The law requires the appearance of Ahmad Harun and Ali Kushayb in court. That major challenge demands the unconditional cooperation of all. The Security Council and regional organizations must take the lead in calling on the Sudan to arrest the two individuals named and surrender them to the Court. The territorial State, the Sudan, has the legal obligation and the ability to do so. And we count on every State to execute an arrest should either of those individuals enter their territory. We hope that the cooperation of the Sudan with the International Criminal Court can be

addressed during the Security Council's mission to Khartoum.

The Darfur situation requires a comprehensive solution. The International Criminal Court is doing its part. The Office will complete its first investigation and will continue to evaluate information about current crimes. As the Rome Statute emphasizes, justice for past and present crimes will enhance security in Darfur.

The Darfur investigation has been ongoing for just over two years. My Office has conducted an independent and impartial investigation. We have focused on some of the most serious crimes and on the individuals who, according to the evidence collected, bear the greatest responsibility for those crimes. Our case focuses on incidents in 2003 and 2004 when the highest number of crimes was recorded. Crimes were committed in Darfur in the context of an armed conflict between the Sudanese security forces, along with the militia/Janjaweed, and organized rebel groups, including the Sudan Liberation Army and the Justice and Equality Movement.

From 2003 on, the conduct of the counter-insurgency campaign resulted in attacks against mainly the Fur, Masalit and Zaghawa civilian populations who were deemed to support or sympathize with the rebels. Acting together in that campaign the Sudanese Armed Forces and the militia/Janjaweed carried out attacks in Kodoom, Bindisi, Mukjar and Arawala approximately between August 2003 and March 2004. They did not target any rebel presence within those villages. Rather, they attacked these villages based on the rationale that those civilians were supporters of the rebels. That strategy became the justification for the mass murder and mass rape of civilians who were known not to be participants in any armed conflict. It achieved the forced displacement of entire communities.

In its decision on 27 April, the Pre-Trial Chamber determined that there were reasonable grounds to believe that Ahmad Harun and Ali Kushayb are criminally responsible for the crimes described by the prosecution, namely 51 counts of crimes against humanity such as persecution, murder, rape and other forms of sexual violence, torture, cruel treatment, unlawful imprisonment, pillaging and forcible transfer of civilians, and war crimes such as rape, intentionally attacking civilians and pillaging.

Ahmad Harun was appointed Minister of State for the Interior shortly after the April 2003 rebel attack on the Al Fashir airport. Ahmad Harun was also tasked to head the Darfur security desk. He had gained experience mobilizing and recruiting militia to serve in counter-insurgency efforts whilst in Kordofan, South Sudan, during the 1990s.

In our cases, State and local security committees in Darfur, which were comprised of representatives of the army, the police and intelligence agencies, reported to Ahmad Harun, especially on matters relating to the staffing, funding and arming of the militia/Janjaweed in the context of the counter-insurgency. Ali Kushayb — "Aqid al Oqada" or "colonel of colonels" in the Wadi Salih locality of West Darfur — personally led militia/Janjaweed during attacks on the four villages mentioned, presiding over summary executions and mass rapes.

The next step should be the arrest of Mr. Harun and Mr. Kushayb and their appearance in court, followed by proceedings relating to confirmation of the charges. In parallel, to uphold its duty to protect victims and witnesses, my Office continues to monitor the security of witnesses and to implement protective measures. Let me also reiterate in that context the importance of witness relocation agreements.

In addition, as indicated in my December 2006 report, the Office is continuing to gather information about current crimes committed by all the parties to the conflict in Darfur and is monitoring the spillover of violence in Chad and the Central African Republic, which are both States parties to the Rome Statute. Let me emphasize, in that respect, a number of strong concerns.

First, in Darfur there are serious allegations of indiscriminate and disproportionate Sudanese Government air strikes from January through April, with some villages bombarded for as long as 10 days. There are allegations of crimes by rebel forces, including against international personnel. There are reports of attacks against internally displaced persons, in particular the rape of women venturing outside the camps. And there is information about local clashes, some allegedly motivated by efforts to reward those collaborating with the militia/Janjaweed. We are conducting a preliminary judicial analysis of all of that.

From the information gathered, it appears that the parties to the conflict continue to violate international humanitarian law. The Office reiterates that those bearing the greatest responsibility must be brought to

justice. It is of particular concern to my Office that Ahmad Harun, an individual sought by the Court for atrocities committed against the civilian population — atrocities that forced their displacement — is still today Minister of State for Humanitarian Affairs in the Government of the Sudan, with the responsibility to watch over these vulnerable people and the international personnel helping them. I ask the Council to address that unacceptable situation during its next mission to Khartoum.

Secondly, in eastern Chad the Office has gathered data on reported attacks in the villages of Tiero and Marena in March 2007 and attacks on refugee camps. Incursions from militia/Janjaweed from the Sudan have been reported, as well as the presence of Sudanese rebels in Chad and the presence of Chadian rebels in the Sudan. Any alleged crimes taking place in 2007, since Chad became a State party, are subject to the jurisdiction of the International Criminal Court.

Thirdly, on 22 May my Office announced the opening of an investigation in the Central African Republic. That investigation is focused on crimes allegedly committed during the years 2002 and 2003, when there was a large-scale commission of crimes including a huge number of rapes. My Office is also monitoring the situation throughout the Central African Republic, including reports of violence in the north since 2005. On the border with Darfur, there have been incidents of violence in the context of allegations of support for rebel groups from the Sudan.

Since my first report to the Security Council, in June 2005 (see S/PV.5216), the Office has devoted considerable efforts to assessing whether its case was admissible under the Statute. Let me emphasize, as I have in the past, that this admissibility assessment is not a judgement regarding the Sudanese justice system as a whole, but an assessment of whether the case selected by the Prosecution has been or is being investigated by the Sudan.

The Prosecution has followed closely all accountability initiatives of the Sudanese authorities. In a series of exchanges with the Government of the Sudan, the Office sought updates on the status of national proceedings. The Sudanese Ministry of Justice reported in a 9 December letter that 14 persons had been arrested in relation to incidents in South Darfur and West Darfur. Ali Kushayb was one of those named in connection with those incidents.

In a mission to Khartoum carried out from 27 January to 7 February 2007 to analyse those developments, the Office met with the Minister of Justice, the Under-Secretary for the Ministry of Justice, the Chief Justice of West Darfur and the President of the Special Court for West Darfur. We interviewed the three special advisers of the Judicial Investigation Committee.

The Prosecution's case is concerned with Ahmad Harun and Ali Kushayb joining together as part of a systematic and organized initiative to attack civilian populations in Darfur. There is no investigation in the Sudan into such criminal conduct. No proceedings have taken place in relation to Ahmad Harun. And the investigation concerning Ali Kushayb does not relate to the same incidents as those investigated by the Office; it does not connect Ali Kushayb to Ahmad Harun. The Sudanese investigations do not encompass the same persons or the same conduct that are the subject of the case before the Court. The Pre-Trial Chamber concluded that the case against Ahmad Harun and Ali Kushayb falls within the jurisdiction of the Court and appears to be admissible.

Paragraph 2 of resolution 1593 (2005) requires the Government of the Sudan and all other parties to the conflict in Darfur to cooperate fully with and provide necessary assistance to the Court and the Prosecutor. Since the beginning of our investigation, the participation of the Government of the Sudan in the process has been important to ensure a full picture of the events in Darfur. A degree of cooperation has been forthcoming. However, requests for assistance — including requests to question Ahmad Harun and Ali Kushayb — remain outstanding. In a 15 February letter, Mr. Ali Karti, Minister of State for Foreign Affairs, confirmed the Government's refusal to allow for such questioning.

Major interlocutors with the Government of the Sudan have encouraged them to assume their responsibility to cooperate with the International Criminal Court. We are grateful for their support. In a 17 April letter, the Office sought clarification from the Sudanese Government as to its intention whether or not to cooperate. No response was forthcoming; on the contrary, a number of statements were made publicly and continue to be made to the effect that the Government of the Sudan will not work with the Court.

Resolution 1593 (2005) invites the Court and the African Union to discuss practical arrangements for facilitating the work of the Prosecutor and the Court. The Office has met regularly with African States and with representatives of the African Union. The President of the Court, the Prosecutor and the Registrar were invited to brief the African Union's Permanent Representatives Committee on 1 March. I am grateful for the support of the African Union presidency in that regard. The President of the Court, the Registrar and I will meet with the President of the African Union, Ghanaian President John Kufuor, on 20 June.

Discussions are also progressing in relation to the conclusion of a memorandum of understanding dealing with the general relationship between the Court and the African Union. Other contacts have been helpful. The Office has benefited from exchanges of views with Special Envoys Jan Eliasson of the United Nations and Salim Salim of the African Union. I am regularly briefing the Secretary-General of the League of Arab States, as well as the States members of the League. Their understanding of the independence and impartiality of the Office is, and will continue to be, crucial.

The Court continues to improve its understanding of local communities; that was the purpose of the Registrar's recent visit to Chad. Relevant Court documents have been translated into Arabic and disseminated, also for that purpose.

In resolution 1593 (2005), the Security Council concluded that justice and accountability are critical components to achieving lasting peace in Darfur. The Office is now moving forward to finalize its preparations for pre-trial proceedings against Mr. Harun and Mr. Kushayb. The key is their arrest and surrender.

The Office relies on the Security Council, on United Nations Member States, on the States parties to the Rome Statute and on its key partners — the African Union and the League of Arab States — to continue to encourage the Sudan to arrest and surrender Ahmad Harun and Ali Kushayb to the International Criminal Court.

The President (*spoke in French*): I thank Mr. Moreno-Ocampo for his briefing.

In accordance with the understanding reached in the Council's prior consultations, I now invite Council members to a private meeting following the adjournment of this meeting.

The meeting rose at 10.40 a.m.